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ABSTRACT

In 1983, the Arkansas Supreme Court passed Act 34 to correct the school finance system of Arkansas which was found to be unconstitutional. The problems with Act 34 are multiple. The following problems and how they add to inequity in education are discussed: (1) the use of artificial calculations; (2) an ill fit with Amendment 59; (3) current funding; (4) outdated provisions; (5) improper weights; (6) the inability of the district to calculate its own state aid; (7) the 70 percent rule; (8) no real required local contribution and no cap on some districts; and (9) the second tier of aid. Nine recommended changes in Act 34 are listed. (SI)

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FINANACIAL REFORM IN ARKANSAS:

SIX YEARS LATER

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Paper presented at the
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In 1983, the Arkansas Supreme Court declared that the school finance system of Arkansas was unconstitutional as it did not provide for a suitable and efficient education for all of the state's children. Act 34 of 1983 was passed to correct this. Six years later, it seems possible to note, that the flaws of this law are such that it too does not provide the constitutional requirement for schools.

At present the ratio of the highest per pupil expenditure in the state to the lowest is 2.87 to 1. Thus, a student in the favored district will have more than two and one-half times as many dollars spent upon his or her education than will the student in the poorer district. This is hardly equity. This is not the foundation for the "World Class" education which our political leadership claims to be working toward.

The problems with the law are multiple. They include:

1. The use of artificial calculations
2. An ill fit with Amendment 59
3. Current funding
4. Outdated provisions
5. Improper weights
6. The inability of the district to calculate its own state aid
7. The seventy percent rule

8. No real required local contribution and no cap on some districts, and

9. The second tier of aid.

Each of these factors and how they add to inequity deserve discussion.

Artificial Money

Although the state was told in Alma v. DuPree to stop using artificial calculations and to include real money instead, Act 34 retains this policy. It is done in two ways. First, the so called "charge" on real property and second, the special treatment of miscellaneous funds.

In the law the local tax yield on real property is calculated as that of 19 mills. This is termed a charge. It makes little difference that the real average millage in the state is 25, that penalties do not accrue to districts until they fall below 16 mills and that the range of millage runs from below 16 to over 60. No distinction is made between operating and capital outlay millage. Both are included equally. Finally, the world of make believe ignores the fact that somewhere between 9 and 13 percent of the funds collected never reach the school. These dollars are paid out in commissions to the county assessor, collector, and treasurer.

To conclude that the 19 mill charge is, in its present application, largely fiction would be an apt statement. If

a district has a low debt expenditure and a less than rapacious assessor, then the charge and its further calculation will reflect actual operating dollars. If, on the other hand debt and commissions are high, the charge is unrealistic.

One matter that helps make the system less observable to some is really another weakness. The charge is too low. It is well below the average millage charge in the state. These extra mills, especially for a wealthier district, help district inequity. Poorer districts do not receive the aid which they need and richer districts can pocket excess funds overcoming any attempt of the rest of the Act to provide equity. Raising the charge would put more of the money available into the total for equalization. This is not the total answer to the difficulties of the law. It would be a step in the right direction. Subtracting the commission would be another step. Change the system to a required local contribution would even be better. But a rise is a start.

The 1989 session of the legislature has made some movement along these lines. The charge can now rise to 25 mills if sufficient funds are appropriated by the legislature. A 25 million dollar state increase will lead to a one mill charge increase. However, more equity must wait for generally higher support.

Miscellaneous funds are also a matter of fictional treatment. Although all tax money, at least that generated by local millage and all state aid is treated like real dollars, these funds categorized as miscellaneous only count in part. But 75% of their amount is to be calculated in the determination of district wealth. Any district receiving various forms of federal payments or payments in lieu of taxation gets special money and can hide 25% of it. An oddity to say the least.

Amendment 59

Three years prior to the enactment of Act 34, the voters of Arkansas approved Amendment 59 to the Arkansas constitution. The amendment has many critics. It accomplished some very questionable ends. However, it is the law and other laws must be synchronized with it. Act 34 is not.

The amendment creates three kinds of property: Real, Personal, and Utility and Carrier. They are treated differently in the reassessment process. They are treated differently in Act 34, but not differently enough and ineffectively.

Because the tax yield on personal and utility property are frozen, the first indefinitely, and the second, for five years, their respective assessments are not subject to the 19 mill charge on real property. Rather they are subject to

a 45-mill charge on their pre-reassessment assessments as corrected by a ratio between current tax yield and pre-reassessment tax yield. This is confusing and leads to some rather remarkable situations.

Personal property assessments are allowed to increase until such a time when the new real property millage will yield the same or greater amount than the old pre-reassessment millage according to the amendment. Assuming a district had an old assessment of $1,000,000 and, the then average millage of 55 mills, it would receive $55,000 per year and be charged $45,000 until its new assessment reached $2,200,000 if its millage were the new average of 25. If it were to reach $2,400,000, 25 mills would result in an income of $60,000. Under these conditions, its charge would rise from $45,000 to $49,050. The old difference between the actual income and the charged income was $10,000. The new difference would be $10,950. As assessment increases the difference will continue to increase, thus, creating fewer dollars involved in equalization and less equity.

When income falls a similar error ensues. The tax yield from utility and carrier property is systematically lowered for five years at the rate of 20 percent of the difference of the yield between the old and new real property millage. Hence, a district taxing at 55 old mills or $1,000,000 worth of assessment would have been receiving

$55,000 per year and be charged $45,000. If its new millage was 25, a $30,000 difference in yield would exist. $6,000 of this amount would be cut each year for the five years. At that point, the income of $25,000 would be used to calculate a new tax base of $454,545. This would yield a charge of $20,455. The new difference between the actual income and the charge would be $4,545 as opposed to the old $10,000 difference. Theoretically, at least it seems possible, that the charge could exceed the actual income.

The odd position into which the Amendment places Act 34 could be corrected by establishing the same millage charge as real property on personal property and utility and carrier property once the millages have caught up and/or once the phase downs are completed. Anything else would seem to add to inequity.

Current Funding

One problem of Act 34 is similar to those of other states. This is that the law funds last year's children. Fund distribution is based on the proceeding year's WADM. This means that great pressure is exerted upon a growing district. In order to conform to the class sizes mandated by the new educational standards, classes must be increased in number, new teachers hired, and facilities provided for the new students entirely at local district expense.

Many districts have objected to this situation and are calling for what has become known as "forward funding." Actually, this is a misnomer. There is nothing forward about it. Rather it is a need to pay for current expenses as they become due.

It has been asserted that the state established the standards without giving schools sufficient dollars to carry them out. The statement is very true on this point. New teachers and new classes cannot be provided without funds. The burden, falling entirely on the local district, does not lead to equity, only strain. The answer is to recalculate state aid after the school year has begun. Even such a move would leave certain inequities necessarily. Suppose a district has lost students. Should its state aid then be cut?

The answer would have to be in the negative. Contracts have been issued to teachers, arrangements have been made to cover other expenditures. A cut in state aid would place such a district in jeopardy. Therefore, in any recalculation, a severe cut would be out of the question and current funding must be based either upon new money or, at most, a minor readjustment of funds to districts which have lost students. Equity is not served by replacing one poor situation with another.

The 1989 legislative session adopted a plan whereby one-sixth of the increase in ADM would be state funded if

state appropriations are 27 million dollars higher. This will be only in the last quarter of the school year. It seems a step but not a particularly large one.

Outdated Provisions

Act 34 is made overly long and complex by lengthy and dated sections. It seems odd to criticize a six-year old law as being dated. But this is the case. The law was passed during statewide property reassessment. Hence, provisions had to be made for districts which had been reassessed as well as those which had not been. In addition, several forms of state aid, no longer legal or applicable, were phased out over a period of years. These years have elapsed.

The result is that the law is far more cumbersome than is necessary. Even if the law were to be retained without essential change, it should be rewritten to remove those sections which have only historic importance.

Weights

As has been discussed at length elsewhere, the current weights are not particularly accurate in their reimbursement for excess cost. This is a predictable event as they vary in size according to the vagaries of the state base equalization rate. Several things should be done with them if they are to result in the districts needs being met.

1) Vocational Education weights should be removed from the calculation of Net Current District Income. This would prevent syphoning off equipment and material money into the teachers' salary fund.
2) All weights should be recalculated every biennium. This will assure that there is both enough money to run the covered programs as well as to provide assurance that no district is receiving an over-payment.
3) An audit trail should be established to assure the fact that funds generated by weights are reaching the earmarked program.
4) A weight for Cultural Deprivation similar to the federal Chapter I should be implemented. Poverty counties are also our educational problems. Federal money has been frozen. The children are not being served.

The 1989 legislature session did address this point and set aside seven million dollars in 1989-90 and eight million thereafter to be distributed on the basis of $325 per child for those children identified as being in need of compensating education. One problem would seem on the way to solution. The solution, however, should have been a weight which would add more equity than a flat grant. The grant would seem to remove the bits of equity which was striven toward in other parts of the law.

Inability to Calculate a District Aid

At present, there is no way that a district superintendent can calculate the state aid due to that school. This is because the equalization rate is calculated by the State Department of Education from district data. The equalization rate floats. If districts have more resources, then the rate increases. The same result takes place with larger state appropriations. Fluctuations are known only to the State Department as they are the only agency with complete data on all 329 districts. Individual districts do not have this information.

There is a simple solution to this situation. This is to copy other states such as Utah and set the equalization rate in the law each biennium. Different ones could be set for each year. Appropriations could be made to cover the designated equalization rate. Calculations as to the amount can be made by the State Department and a realistic estimate prepared. Any excess funds could be carried over to the following biennium.

The procedure would have an added advantage over present policy. Items such as teacher salaries could be raised by simple appropriation increases to specific amounts rather than hoping that the equalization rate would reach or exceed a certain figure. The figure would be set.

The Seventy Percent Rule

At present, 56 percent of new money and 70 percent of the total net revenue of a school district must go to teacher salaries. This situation has not equalized teacher pay and has made it quite difficult to give teachers an equal pay increase. In 1987-88 average teaching salaries varied from $24,292 to $13,799 depending upon the school district. A difference of over $10,000 is not equity. The present system cannot so result.

An across-the-board salary increase cannot be given by the state unless it provides 44 percent more money than is needed for salaries. If the $4,000 increase currently under discussion were given, then some $5,760 would have to be appropriated for each teacher. With a pupil-teacher ratio of 15.8 to 1, this would mean an increase in the equalization rate of $364.55 per WADM. This is a very large sum.

It would seem more practical for the state to set certain salary minimums such as for a beginning teacher, a teacher with a Master's degree and/or a teacher with 10 years or 20 years experience.

Such a move would be more effective in bringing salaries closer together. Repealing the 56 and 70 percent requirements would make it less expensive for the state to give raises to teachers. It would also give more flexibility to districts in budgeting once the salary

minimums have been met. These minimum salaries would assure a teacher of more just treatment than a $10,000 differential currently provides.

The Lack of a Required Millage

In actual fact, no minimum local millage effort is required to participate in educational fund distribution under Act 34. Districts which tax themselves at below 16 mills are penalized only by withholding add-on weights for certain programs such as vocational education, gifted and talented, and small district size. Special education is not affected. Theoretically, at least, it would be possible to run a district on state funds alone.

According to a new amendment to the law, the minimum millage to be taxed without penalty is set at three mills below the charge on real property. If the latter were to increase from 19 to say 21, then the minimum millage would become 18. However, the losses for being below this amount are still comparatively minor.

This situation has two major effects. (1) It mitigates against equity, and (2) it causes the state to constantly add to state aid rather than local funding taking up part of the slack.

Equity means equal treatment of the taxpayer quite as much as it means equal opportunity for the student. The highest local millage in the state was 63.40 mills in

1987-88, the lowest 15.10. The average was 25.54. It is evident that the citizen in the high taxing district is paying a rate more than four times greater than the resident of the district lowest in effort.

There are three solutions to the effort problem. These are:

1. Requiring a minimum local millage, not just a charge, and penalizing more strictly, but severely cutting state aid or cutting it out entirely until average effort is being made.
2. Change over to a system of state aid based upon equalized millage yield as in Colorado. Under such a system, a district receives state aid per WADM per mill up to and only up to its actual millage rate.
3. Combine a required millage contribution with millage over the average or set amount being reimbursed on an equalized millage yield. A cap could be added to this alternative as well as to No. 2 above, which would be raised only with special permission to hold down some local taxes.

Educational expenditures shared between local districts and the state is a set of trade-offs. For every dollar contributed locally, the state should save aid. On the other hand, for every dollar the state contributes without a corresponding local effort, the state must assume what is more properly a local burden.

The Second Tier of Aid

Most people, even those on speaking terms with Act 34, do not realize that it contains a second tier of aid. This is a small sum, 1 percent of any yearly increase in state aid, which is distributed to districts at the very bottom of the pile if they are taxing 22 mills. It is but a placebo rather than a cure.

More important, it is an admission on the part of the state that no real equity is created by Act 34. If it were, there would be no need for the pittance to be made available to the poorest districts. Evidently, equal opportunity is to be restricted by state policy. Act 34 requires close scrutiny and a rather complete revision to live up to the expectations which citizens and educators had for it in 1983.

In Summary

Although it might prove a better course to design a totally new finance law, Act 34 could strive for more equity with changes, many of which are major. These would include:

1. Raising the "charge" on real property.
2. Equalizing the "charge" on personal property and utility and carrier property once the provisions of Amendment 59 have taken effect.
3. Funding the current school year rather than the previous one.

4. Revising the law, removing the lengthy, outdated provisions.
5. Removing Vocational Education weights from the salary compulation figures; recalculating weight value each biennium, establishing an audit trail, and adding a weight for cultural deprivation.
6. Establishing an equalization rate by law rather than by calculation.
7. Replacing the various percentages for teacher salaries with minimum salaries.
8. Establish a required local contribution or adopt equalized millage yield per pupil.
9. Make the second tier of aid realistic or drop it.

These changes should help the state achieve the equal access to quality programs which all want for our children.